



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Karl R. Kennedy et al.

Serial No.: 10/717,078

Filed: November 19, 2003

Group Art Unit: 3616

Examiner: Jacob Y. Choi

For: AN INSTRUMENT PANEL HAVING CONCEALED SWITCHES

Attorney Docket No.: LEAR 03781 PUS

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

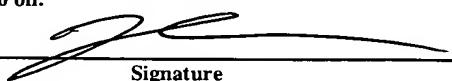
The Applicant respectfully requests review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a notice of appeal. The review is requested for the reasons set forth in the remarks below.

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8 (FIRST CLASS MAIL)

I hereby certify that this paper, including all enclosures referred to herein, is being deposited with the United States Postal Service as first-class mail, postage pre-paid, in an envelope addressed to: Mail Stop AF, Commissioner for Patents, U.S. Patent & Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450 on:

6-27-06
Date of Deposit

John R. Buser
Name of Person Signing


Signature

REMARKS

In response to the final Office Action mailed April 11, 2006, the Applicants have elected to file a Notice of Appeal and a Pre-Appeal Brief Request For Review. This paper relates to the Pre-Appeal Brief Request For Review and was submitted with the Notice of Appeal.

This paper is limited to the rejections set forth with respect to the independent claims 1 and 17, which are the only pending independent claims. The Applicants submit this limited set of remarks so as to better define the arguments and issues for Appeal.

These remarks are made without prejudice and without conceding the Examiner's rejections with respect to the other pending claims. The Applicants reserve the right to separately argue any one or more of the rejections set forth by the Examiner and to do so with any suitable argument, and not just the arguments set forth below.

Claims 1 and 17 are rejected on two separate grounds: (1) under 35 U.S.C. § 102(b) as being anticipated by U.S.P.N. 6,247,825 to Borkowski; and (2) under 35 U.S.C. § 103(a) as being unpatentable over U.S.P.N. 5,987,793 to Ebine in view of U.S.P.A. to Damiani.

Claims 1 and 17 are limited to instrument panel systems having a control module, control panel, and illumination sources. The control panel includes buttons, switches, icons or other features for interfacing passenger request with the control module. The control module uses the passenger requests to control vehicle systems. The control module is further configured to selectively illuminate to buttons, switches, icons or other control panel features so as to vary the vehicle system(s) being controlled.

The present invention is able to control different vehicle systems by simply varying operations of one or more of the illumination sources. In short, the present invention provides a system for electronically controlling different vehicle systems as a function of variable switch illumination.

Borkowski Rejection

The Borkowski patent discloses a lighting system where LEDs are used to spot light portions of an aircraft cockpit having a instrument panel with a number of switches. The LEDs provide illumination at a wavelength that does not interfere with night vision imaging commonly used by pilots. A push-button on/off switch is provided so that the pilot can control whether all the LEDs are on/off.

The Borkowski patent fails to disclose selectively illuminating individual LEDs. The Borkowski patent requires an on/off button to turn all the LEDs on or off at the same time, such that the LEDs cannot be selectively illuminated. The user actuated on/off switch teaches away from a control module for selectively controlling illumination of the switches.

The Borkowski patent fails to disclose varying the system controlled by the switches. The Borkowski switches control the same systems regardless of the illumination status of the LEDs, i.e., regardless of whether the LEDs are on or off. The Borkowski patent necessarily requires the switches to control the same system as it is undesirable to change the controlled system when operating under night vision. The Borkowski patent teaches away from electronically varying system control as a function switch illumination.

The Examiner has clearly failed to meet the burdens imposed on 35 U.S.C. § 102(b), at least with respect to the two aspects of the present invention described above

The Examiner is request to better clarify where the Borkowski patent discloses electronically controlling different vehicle systems as a function of variable switch illumination.

Ebine and Damiani Rejection

The Ebine patent relates to switches used with video cameras, and more particularly, to switches that may be concealed from view when an LED located behind an indicator is turned off. The Ebine patent discloses two strips of switches and turning the entire strip on/off in response to user actuator of a selector switch, i.e., all the LEDs in one strip are on or off at the same time.

The Ebine patent relies upon a user to control strip illumination with actuation of the selector switch. The positioning of the selector strip controls whether the first or second strip of switches is illuminated. The Ebine patent fails to disclose whether the switches are active or inactive when the indicators associated therewith are not illuminated.

The Damiani application relates to a automotive vehicle instrument panel having a display and a number of push-buttons around the display. Icons and other images may be shown within the display and aligned with the buttons around the display such that a user may select the buttons to actuate a function associated with the aligned icon.

The Applicants submit the Ebine patent is non-analogous art because it is not within the field of endeavor of the present application. The present application relates to controlling vehicle operations and electronically varying system control as a function of switch illumination. The Ebine patent has nothing to do with vehicle control, as admitted to by the Examiner, and nothing to do with electronically varying system control - the Ebine patent relies on a user to control illumination. As such, one of ordinary skill in the art would not logically avail themselves of the Ebine patent when endeavoring to solve problems with respect to

electronically controlling different vehicle systems as a function of variable switch illumination.

Notwithstanding the non-analogous nature of the Ebine patent, the Applicants submit there is no motivation to combine the teachings of the Ebine patent with the Damiani application.

Firstly, the Ebine patent has nothing to do with vehicle operations or user interface type displays - the Ebine patent is merely concerned with hiding icons within an substrate of a video camera. The display and push-buttons of the Damiani application are permanently visible such that it would change the principle intent of the Ebine patent to incorporate teachings of an application that fails to conceal the buttons from view.

Secondly, there is no motivation to adapt the Ebine patent to included the configurable control of the Damiani display. The Ebine patent is only related to fixed button and fixed control applications, such as video cameras, where the control provided by the buttons is fixed. In fact, the Ebine patent fails to disclose whether the non-illuminated buttons are inactive or active such that one cannot infer whether the Ebine patent provides any variable control as a function of illumination. In contrast, the Damiani application automatically changes the display to correspond with the buttons such that the functions controlled by the buttons may be changed. The two teachings are inconsistent with each other.

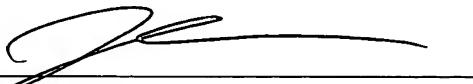
The Applicants submit the Ebine patent is non-analogous art and that it is improper for the Examiner to combine the teachings of the Ebine patent with the Damiani application. On either grounds, the presently pending claims cannot be properly rejected. The Applicants reserve the right to address whether the Ebine patent and/or Damiani application teach each element of the presently claimed invention.

Conclusion

By this paper, the Applicants have attempted to better define the issues for appeal and have limited the remarks for that reason. The limitations on these remarks, however, are made without prejudice to any other positions available to the Applicants. The review panel is respectfully request to consider the issues above and to provide a ruling on the same.

Respectfully submitted,

Karl R. Kennedy et al.

By: 

John R. Buser

Registration No. 51,517

Attorney/Agent for Applicant

Date: 6-27-06

BROOKS KUSHMAN P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075-1238
Phone: 248-358-4400
Fax: 248-358-3351